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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 3, 1999

Ex Parte Notice

Magalie Roman Salas
Secretary
Federal Communications Commission
445 – 12th Street, SW – TW – A325
Washington, DC 20554

Re: Oral Ex Parte Presentation
CC Docket No. 96-45 ✓
AAD/USB File No. 98-37

Dear Ms. Salas:

On February 2, 1999, Porter Childers, Marvin Bailey, Bill Maher, Jim Lambertson, Mary Henze, and B.B. Nugent, representing the United States Telephone Association (USTA), met with Linda Kinney, Advisor to Commissioner Ness, of the Federal Communications Commission. This meeting was to discuss USTA's position supporting the current universal service treatment of the Washington State Department of Information Services network and the Iowa Communications Network (ICN). The attached material was the basis for the presentation.

In accordance with Section 1.1206(b)(2) of the Commission's rules, two copies of this notice and attached presentation materials for each of the above-referenced docket and file numbers are being submitted to your office for filing. Please include them in the public record of those proceedings.

Respectfully Submitted,

Porter Childers/KT

Porter E. Childers
Executive Director of
Legal and Regulatory Affairs

cc: Hon. William E. Kennard	Paul Gallant
Hon. Susan Ness	Kevin J. Martin
Hon. Michael K. Powell	Irene Flannery
Hon. Harold Furchtgott-Roth	Melissa Waksman
Hon. Gloria Tristani	Amy Nathan
Kathryn C. Brown	Lawrence Strickling
Thomas C. Power	Lisa Zaina
Linda Kinney	Jane Whang
Kyle Dixon	Valerie Yates

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**THE CURRENT UNIVERSAL SERVICE
TREATMENT OF THE WASHINGTON
DEPARTMENT OF INFORMATION SERVICES
SHOULD BE RETAINED**

**UNITED STATES TELEPHONE ASSOCIATION
EX PARTE PRESENTATION
CC DOCKET NO. 96-45**

FEBRUARY 2, 1999

- I. The Commission Should Reaffirm the Fourth Reconsideration Order on Universal Service As It Applies To The Washington DIS Network.**
 - A. As a state government network, the Washington network is not a "telecommunications carrier" eligible for direct "schools and libraries" support under Section 254(h)(1)(B) of the 1996 Act.**
 - B. The Washington network does not enhance access to "advanced telecommunications services" pursuant to Section 254(h)(2)(A).**
 - C. The current treatment of the Washington network is competitively neutral and will promote cost-effective provision of services to schools and libraries.**

II. The Fourth Reconsideration Order Correctly Provides Universal Service Support For The Washington DIS Network

- A. State government networks are eligible as consortia to pass along discounts when procuring supported telecommunications (4th Reconsideration Order ¶ 183).**
- B. State networks may receive reimbursement for providing internal connections and Internet access (4th Reconsideration Order ¶ 190).**
- C. The Washington DIS network is not required to contribute to universal service.**

III. The Washington DIS Network Is Not A Telecommunications Carrier

A. Washington DIS does not provide telecommunications "to the public or such classes of users as to be effectively available directly to the public."

-- The network serves Washington state and local governmental agencies, including public schools and libraries.

B. The Commission has no authority to make a "regulatory exception" to or "waive" this statutory classification for universal services purposes.

IV. There Is No Basis For Treating Washington DIS Uniquely As Enhancing Access To Advanced Telecommunications Services

- A. The Commission's interpretation of enhancing access to advanced services focuses on Internet access and internal connections (now under judicial review).**
- B. The services listed by Washington DIS cannot be considered as "advanced" for universal service purposes or as enhancing access to such services:**
 - ISDN/Intranet**
 - Service integration and bundling**
 - Other administrative services**
- C. "Advanced" treatment could set a broad, costly precedent.**

V. Washington DIS Should Not Receive Special Direct Support For Its Administrative Costs

- A. Such support would provide no incentives to control maintenance, administrative, and marketing costs.**
- B. As a general matter, these costs could be reduced by outsourcing or purchasing administrative services from carriers.**
- C. The Universal Service program was intended to support schools and libraries, not state administrative costs and investment decisions.**
- D. Unlike LECs, Washington DIS is not subject to common carrier regulation.**

VI. Washington DIS Is Not Uniquely Burdened By Accounting Requirements For Consortia

A. All participants in the Universal Service program bear administrative burdens:

- Consortia**
- Other service providers**
- Applicants**

B. Exceptional treatment of Washington DIS based on alleged burdens would be a bad precedent.

C. Accounting requirements assure program integrity.

D. Burdens can be reduced by minimizing the state network's share of administrative overhead.

VII. Granting The Washington DIS Petition Would Not Be Competitively Neutral

- A. Unlike Washington DIS, carriers must contribute to universal service.**
- B. It would not be competitively neutral for these carriers to support a state network that competes directly with them but does not contribute to universal service.**
- C. Carriers in Washington state have paid taxes to support Washington DIS.**

- D. Washington DIS has competitive advantages in serving eligible users because of its ability to:**
- buy large volumes of telecommunications services at advantageous rates from telecommunications carriers and**
 - tailor its offerings to a exclusive class of customers.**
- E. As a non-telecommunications carrier, Washington DIS is not subject to state or federal regulation.**
- F. The current rules provide market incentives for Washington DIS to minimize administrative costs and retain customers.**

VIII. The Comparative Cost Examples Presented By Washington DIS Do Not Establish That Reconsideration Would Result in Savings For the Universal Service Fund.

A. The examples wrongly assume that Washington DIS will maintain a constant level of administrative costs under the current rules:

- To the contrary, the current rules provide Washington DIS with strong incentives to operate more efficiently.**
- If the petition is granted, Washington DIS would have no incentives to reduce administrative costs.**

B. The examples do not make meaningful comparisons:

- They do not compare Washington DIS's prices with those of a similarly sized volume-purchasing arrangement.**
- Instead, they compare Washington DIS prices with "carrier-direct" prices that a single school district would pay.**

IX. Conclusion

- A. The Commission should deny the Washington DIS petition for reconsideration.**
- B. There is no reason to provide special treatment for Washington DIS.**
- C. The Fourth Reconsideration Order as applied to Washington DIS promotes cost-effective provision of services and competitive neutrality.**
- D. Granting the petition would have negative precedential effects.**